



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

October 28, 1999

BY FACSIMILE AND US MAIL

Russell V. Randle  
Patton Boggs LLP  
2550 M Street, NW  
Washington, D.C. 20037

RE: Collierville Superfund Site; Proposed Tolling Agreement

Dear Mr. Randle:

I am in receipt of your letter dated October 26, 1999. In order to assist your client in signing a tolling agreement for the above referenced site, I will address your questions as raised.

The costs, as you list them in your letter, are quite close to my calculations, though not exact. I am unsure who Carrier spoke to when you say that discussions took place with EPA personnel to arrive at those numbers. So as to be exact, and as a result of Carrier's request, our accounting office is in the process of certifying a complete cost package to be forwarded to Carrier to support our claim for these costs. When the certification is complete I can then confirm exactly how the numbers are broken down. Cost package certification takes six to eight weeks and is a very detailed process.

The signing of a tolling agreement will provide EPA and Carrier the necessary time to prepare and receive certified supporting documentation for the costs demanded. As indicated, the certification process will take six to eight weeks. Not only is the tolling agreement necessary to preserve EPA's most recent claim for costs, though small, under the UAO, but the tolling agreement will give the parties time to negotiate an AOC that will reference the existing UAO. The reason for this is that we need a consensual agreement in place to preserve our claim for future costs incurred in oversight of work ongoing under the UAO. Once a tolling agreement is in place, EPA will prepare and forward to you a DRAFT AOC for your consideration.

As for unpaid costs covered by the 1989 AOC, EPA will provide Carrier a certified cost package and will work with you to try and explain those costs to your satisfaction so that payment can be made. As for those costs being barred by any statute of limitations, I have researched the issue more thoroughly and it is the position of EPA and the Department of Justice that the statute of limitations in 113 of CERCLA does not apply to costs incurred and owed to the United States under an order on consent.

As previously stated, EPA appreciates the cooperative relationship that we have had with

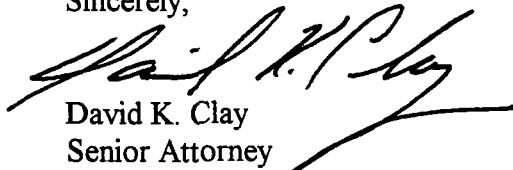


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Carrier and would like to continue that relationship without the need of bringing in a third party. However, we are unfortunately under time restrictions which necessitates that I ask you for a signed tolling agreement by Monday, November 8, 1999. The tolling agreement should provide EPA and Carrier with the time needed to provide cost documentation and to discuss a new AOC.

With every best regard, I am

Sincerely,

A handwritten signature in black ink, appearing to read "David K. Clay", with a long horizontal flourish extending to the right.

David K. Clay  
Senior Attorney

\*\*\* TRANSMISSION REPORT \*\*\*

OCT-28-99 15:21 ID:404 562 9486

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
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ATLANTA, GEORGIA 30303-3104

ENVIRONMENTAL ACCOUNTABILITY DIVISION  
SENDER'S FAX NUMBER (404) 562-9486

TELECOPY TRANSMITTAL SHEET

DATE: 10/28/99  
TO: Russell Bandle  
OFFICE: Taton Boas LLP  
FROM: David Clay

NUMBER OF PAGES 3  
PHONE: \_\_\_\_\_  
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